

Page 1 of 2

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1084-MLM-E **TCEQ ID:** RN105229645 **CASE NO.:** 34149
RESPONDENT NAME: Bill Dechert

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Bill Dechert Property, 343 United States Highway 83, outside of Junction, Kimble County</p> <p>TYPE OF OPERATION: Unauthorized municipal solid waste disposal site</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on April 11, 2007, concerning unauthorized burning. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on December 17, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Marlin Bullard, Enforcement Division, Enforcement Team 7, MC R-09, (254) 761-3038; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Bill Dechert, Owner, 343 U.S. Highway 83, Junction, Texas, 76849 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: April 11, 2007</p> <p>Date of Investigation Relating to this Case: April 24, 2007</p> <p>Date of NOV/NOE Relating to this Case: June 1, 2007 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>AIR/WASTE</p> <p>1) Failed to comply with the general prohibition on outdoor burning. Specifically, the Respondent failed to prevent approximately 350 cubic yards of waste including wood, wood mulch and soil from igniting and burning at the Site [30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failed to prevent the unauthorized disposal of municipal solid waste. Specifically, the Respondent failed to prevent the disposal of approximately 700 cubic yards of municipal solid waste including construction and demolition debris, insulation, tires, concrete, and other waste at the Site [30 TEX. ADMIN. CODE § 330.15(c)].</p>	<p>Total Assessed: \$2,000</p> <p>Total Deferred: \$400 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$1,600</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order:</p> <p>i. Cease the receipt and storage of additional waste material at the Site;</p> <p>ii. Cease all unauthorized burning of wastes;</p> <p>b. Within 30 days after the effective date of this Agreed Order, remove all waste material from the Site, and dispose of the waste at an authorized site; and</p> <p>c. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. and b.</p>

Additional ID No(s): N/A



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision June 26, 2007

TCEQ

DATES	Assigned	4-Jun-2007	Screening	6-Jul-2007	EPA Due	
	PCW	19-Jul-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Bill Dechert
Reg. Ent. Ref. No.	RN105229645
Facility/Site Region	8-San Angelo
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	34149	No. of Violations	2
Docket No.	2007-1084-MLM-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Marlin Bullard
Multi-Media	Air	EC's Team	Enforcement Team 7
Admin. Penalty \$	Limit Minimum \$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 **\$2,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 0% Enhancement Subtotals 2, 3, & 7 **\$0**

Notes: The Respondent has no prior orders or NOV's at this site within the past five years.

Culpability 0% Enhancement Subtotal 4 **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction Subtotal 5 **\$0**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts	\$4,929	0% Enhancement* *Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$13,650	

Subtotal 6 **\$0**

SUM OF SUBTOTALS 1-7 Final Subtotal **\$2,000**

OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Adjustment **\$0**

Notes

Final Penalty Amount **\$2,000**

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty **\$2,000**

DEFERRAL

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

20% Reduction

Adjustment **-\$400**

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$1,600

Screening Date 6-Jul-2007

Docket No. 2007-1084-MLM-E

PCW

Respondent Bill Dechert

Policy Revision 2 (September 2002)

Case ID No. 34149

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN105229645

Media [Statute] Municipal Solid Waste

Enf. Coordinator Marlin Bullard

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

The Respondent has no prior orders or NOVs at this site within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 6-Jul-2007 Respondent Bill Dechert Case ID No. 34149 Reg. Ent. Reference No. RN105229645 Media [Statute] Municipal Solid Waste Enf. Coordinator Marlin Bullard Violation Number <input type="text" value="1"/> Rule Cite(s) <input type="text" value="30 Tex. Admin. Code § 111.201 and Tex. Health & Safety Code § 382.085(b)"/> Violation Description <input type="text" value="Failed to comply with the general prohibition on outdoor burning, as documented during an investigation conducted on April 24, 2007. Specifically, the Respondent failed to prevent approximately 350 cubic yards of waste including wood, wood mulch and soil from igniting and burning at the Site."/>	Docket No. 2007-1084-MLM-E PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision June 26, 2007</i>																			
Base Penalty <input type="text" value="\$10,000"/>																				
>> Environmental, Property and Human Health Matrix																				
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td>Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td>Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td style="text-align: center;">x</td> <td rowspan="2">Percent <input type="text" value="10%"/></td> </tr> <tr> <td>Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>		Harm				Release	Major	Moderate	Minor		Actual	<input type="text"/>	<input type="text"/>	x	Percent <input type="text" value="10%"/>	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
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	Major	Moderate	Minor																	
Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>																
Matrix Notes	<input type="text" value="Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors."/>																			
Adjustment <input type="text" value="\$9,000"/>																				
<input type="text" value="\$1,000"/>																				
Violation Events																				
<table style="width: 100%;"> <tr> <td style="width: 40%;"> Number of Violation Events <input type="text" value="1"/> </td> <td style="width: 20%; text-align: center;"> <input type="text" value="1"/> </td> <td style="width: 40%;"> Number of violation days </td> </tr> </table>		Number of Violation Events <input type="text" value="1"/>	<input type="text" value="1"/>	Number of violation days																
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mark only one with an x	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">daily</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">monthly</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">quarterly</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">semiannual</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">annual</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">single event</td> <td style="text-align: center;">x</td> </tr> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	x							
daily	<input type="text"/>																			
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quarterly	<input type="text"/>																			
semiannual	<input type="text"/>																			
annual	<input type="text"/>																			
single event	x																			
Violation Base Penalty <input type="text" value="\$1,000"/>																				
<input type="text" value="One single event is recommended."/>																				
Economic Benefit (EB) for this violation																				
Statutory Limit Test																				
Estimated EB Amount <input type="text" value="\$4,550"/>	Violation Final Penalty Total <input type="text" value="\$1,000"/>																			
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,000"/>																				

Economic Benefit Worksheet

Respondent Bill Dechert
Case ID No. 34149
Reg. Ent. Reference No. RN105229645
Media Municipal Solid Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$4,550	24-Apr-2007	24-Apr-2007	0.0	\$0	\$4,550	\$4,550
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to dispose of approximately 350 cubic yards of waste at a permitted municipal solid waste landfill at \$13 per cubic yard.

Approx. Cost of Compliance

\$4,550

TOTAL

\$4,550

Screening Date 6-Jul-2007

Docket No. 2007-1084-MLM-E

PCW

Respondent Bill Dechert

Policy Revision 2 (September 2002)

Case ID No. 34149

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN105229645

Media [Statute] Municipal Solid Waste

Enf. Coordinator Marlin Bullard

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 330.15(c)

Violation Description

Failed to prevent the unauthorized disposal of municipal solid waste, as documented during an investigation conducted on April 24, 2007. Specifically, the Respondent failed to prevent the disposal of approximately 700 cubic yards of municipal solid waste including construction and demolition debris, insulation, tires, concrete, and other waste at the Site.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

73 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One quarterly event is recommended from the April 24, 2007 investigation date to the July 6, 2006 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$379

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent Bill Dechert
Case ID No. 34149
Reg. Ent. Reference No. RN105229645
Media Municipal Solid Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$9,100	24-Apr-2007	22-Feb-2008	0.8	\$379	n/a	\$379
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to dispose of approximately 700 cubic yards of waste at a permitted municipal solid waste landfill at \$13 per cubic yard. The Date Required is the date of the investigation and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$9,100

TOTAL

\$379

Compliance History

Customer/Respondent/Owner-Operator:	CN603192477	DECHERT, BILL	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN105229645	BILL DECHERT PROPERTY	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):				
Location:	343 US HWY 83, JUNCTION, TX, 76849		Rating Date: September 01 06 Repeat Violator: NO	
TCEQ Region:	REGION 08 - SAN ANGELO			
Date Compliance History Prepared:	July 20, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	July 20, 2002 to July 20, 2007			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Marlin Bullard Phone: (254) 761-3038

Site Compliance History Components

- | | |
|--|------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A

B. Any criminal convictions of the state of Texas and the federal government.
N/A

C. Chronic excessive emissions events.
N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

F. Environmental audits.
N/A

G. Type of environmental management systems (EMSs).
N/A

H. Voluntary on-site compliance assessment dates.
N/A

I. Participation in a voluntary pollution reduction program.
N/A

J. Early compliance.
N/A

Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BILL DECHERT
RN105229645**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1084-MLM-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Bill Dechert ("Mr. Dechert") under the authority of TEX. HEALTH & SAFETY CODE chs. 361 and 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Dechert appear before the Commission and together stipulate that:

1. Mr. Dechert owns and operates an unauthorized municipal solid waste disposal site at 343 United States Highway 83 outside of Junction, Kimble County, Texas (the "Site").
2. The Site involves or involved the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361, and consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and Mr. Dechert agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Dechert is subject to the Commission's jurisdiction.
4. Mr. Dechert received notice of the violations alleged in Section II ("Allegations") on or about June 6, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Dechert of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Two Thousand Dollars (\$2,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Dechert has paid One Thousand Six Hundred Dollars (\$1,600) of the administrative penalty and Four Hundred

Dollars (\$400) is deferred contingent upon Mr. Dechert's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Mr. Dechert fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Mr. Dechert to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Mr. Dechert have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. Dechert has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Site, Mr. Dechert is alleged to have:

1. Failed to comply with the general prohibition on outdoor burning, in violation of 30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on April 24, 2007. Specifically, Mr. Dechert failed to prevent approximately 350 cubic yards of waste including wood, wood mulch and soil from igniting and burning at the Site.
2. Failed to prevent the unauthorized disposal of municipal solid waste, in violation of 30 TEX. ADMIN. CODE § 330.15(c), as documented during an investigation conducted on April 24, 2007. Specifically, Mr. Dechert failed to prevent the disposal of approximately 700 cubic yards of municipal solid waste including construction and demolition debris, insulation, tires, concrete, and other waste at the Site.

III. DENIALS

Mr. Dechert generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Dechert pay an administrative penalty as set forth in Section I, Paragraph 6. The payment of this administrative penalty and Mr. Dechert's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Bill Dechert, Docket No. 2007-1084-MLM-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that Mr. Dechert shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order:
 - i. Cease the receipt and storage of additional waste material at the Site;
 - ii. Cease all unauthorized burning of wastes;
 - b. Within 30 days after the effective date of this Agreed Order, remove all waste material from the Site, and dispose of the waste at an authorized facility; and
 - c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Mr. Mark Newman, Waste Section Manager
San Angelo Regional Office
Texas Commission on Environmental Quality
622 South Oakes, Suite K
San Angelo, Texas 76903-7013

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Dechert. Mr. Dechert is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If Mr. Dechert fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Dechert's failure to comply is not a violation of this Agreed Order. Mr. Dechert shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Dechert shall notify the Executive Director within seven days after Mr. Dechert becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Dechert shall be made in writing to the Executive Director. Extensions are not effective until Mr. Dechert receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Dechert in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Mr. Dechert, or three days after the date on which the Commission mails notice of the Order to Mr. Dechert, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Sullivan

For the Executive Director

2/7/2008

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Bill Dechert

Signature

9-23-07

Date

Bill Dechert

Name (Printed or typed)
Authorized Representative of
Bill Dechert

Owner

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

